

Order

Michigan Supreme Court
Lansing, Michigan

May 30, 2008

Clifford W. Taylor,
Chief Justice

135997 & (42)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

NSK CORPORATION,
Plaintiff-Appellant,
Cross-Appellee,

v

SC: 135997
COA: 274633
Ct of Claims: 2005-000137-MT

DEPARTMENT OF TREASURY,
Defendant-Appellee,
Cross-Appellant.

On order of the Court, the application for leave to appeal the January 29, 2008 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE that portion of the Court of Appeals opinion ruling that claim for a refund was made under MCL 205.30(2) on the date the Department of Treasury notified the plaintiff that it was entitled to a refund. Section 30(2) requires that the claim be one made by the taxpayer seeking a refund either in a tax return or by separate request. In this case, the plaintiff made such a claim when it responded, on April 26, 2005, to the Treasury Department's Audit Determination Letter, agreeing with the amount of the refund, but demanding interest on the refund. Pursuant to MCL 205.30(3), interest on the plaintiff's refund accrues 45 days after the later of the date that the tax return requesting a refund was filed or a separate claim for a refund was made. In this case interest accrues 45 days after April 26, 2005, beginning on June 10, 2005. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court. The application for leave to appeal as cross-appellant is DENIED, because we are not persuaded that the question presented should be reviewed by this Court. We REMAND this case to the Court of Claims for further proceedings not inconsistent with this order.

CAVANAGH and KELLY, JJ., would grant leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 30, 2008

Corbin R. Davis

Clerk